

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEE SMITH,	:	
Petitioner,	:	
v.	:	Civ. No. 20-2901
	:	
RICHARD MARSH, et al.,	:	
Respondents.	:	

ORDER

On June 3, 2020, *pro se* state prisoner Lee Smith sought habeas relief, alleging ineffectiveness of his trial and PCRA counsel, and that certain evidence admitted against him denied him a constitutionally fair trial. (Doc. No. 1 at 3, 24, 27, 29, 31, 35, 38, 41; Doc. No. 25 at 1); 28 U.S.C. § 2254.

In July 2020, I referred his Petition to Magistrate Judge Perkin for a Report and Recommendation. (Doc. No. 3.) The Clerk of Court reassigned the matter to Magistrate Judge Strawbridge in September 2021. (Doc. No. 19.) On March 13, 2023, Judge Strawbridge recommended that I deny and dismiss the Petition because Smith’s ineffectiveness claims are procedurally defaulted and his fair trial claim non-cognizable. (Doc. No. 25 at 1.) On March 31, 2023, I granted Smith’s Motion for Extension of Time to File Written Objections and ordered him to file his objections no later than April 26, 2023. (See Doc. Nos. 26, 27, 28, 29.)

No objections to the Report and Recommendation have been made. (See Docket.) Accordingly, I must “satisfy [myself] that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) Advisory Committee Notes; see also Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (the district court must “afford some level of review” when no objections have been made). Having reviewed the Report, I see no clear errors and I agree with Judge Strawbridge’s recommendation.

AND NOW, this 19th day of July, 2023, it is hereby **ORDERED** that:

1. The Petition for a Writ of Habeas Corpus (Doc. No. 1) is **DENIED**;
2. The Magistrate Judge's Report and Recommendation (Doc. No. 25) is **APPROVED AND ADOPTED**; and
3. Because Petitioner has not made a substantial showing of the denial of a constitutional right, there are no grounds on which to issue a certificate of appealability.

IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.